



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(226)

CWP No. 16881 of 2017 (O&M)

Date of Decision : 02.12.2024

Gurinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Naresh Kumar, Advocate for the petitioner.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance of the petitioner is that the claim of the petitioner for the grant of compassionate appointment has been declined on the ground that the mother of the petitioner was on extension at the time of her death, hence, the petitioner cannot be considered for compassionate appointment, which is arbitrary and illegal and contrary to the Instructions dated 27.12.2016 (Annexure P-2), which have been issued by the Government of Punjab, which has been made applicable from 08.10.2012 to mean that the employees who were serving on extension after attaining the age of superannuation, the compassionate appointment will be admissible in case, such employee dies.

2. Upon notice of motion, the respondents have filed the reply, wherein, they have stated that the claim was raised by the petitioner after 15 months of the death of his mother and further, the mother of the petitioner



was serving on extension in service, hence, the claim of the petitioner for the grant of compassionate appointment is not admissible.

3. I have heard learned counsel for the parties and have gone through the record with their able assistance.

4. The only question which has been posed to answer is that when an employee is working on extension in service after the attaining the age of superannuation, whether the family members will be entitled for compassionate appointment in case such employee dies while serving the State of Punjab on extension in service and on extension, the compassionate appointment is not admissible as per the Instructions dated 29.03.2017. The said question has already been decided by the respondent-State while issuing the Instructions dated 27.12.2016 (Annexure P-2). The relevant paragraph 3 of the Instructions is as under :-

“3. Now, Government has taken decision to grant employment on compassionate grounds to dependents of officials/employees of State Government who have availed extension in service from 58 to 60 years (Group A,B,C) and 60 to 62 years (Group-D) on account of death during extended period of service as per new policy. These instructions shall come into force with effect from 08th October, 2012.”

5. The mother of the petitioner has died on 26.04.2016 before the date, the Instructions dated 29.03.2017 (Annexure P-6) were issued and during the period the Instructions dated 27.12.2016 were in effect, which created a right for consideration for the grant of compassionate appointment. Merely that the Instructions dated 27.12.2016 (Annexure P-2) were



withdrawn vide Instructions dated 29.03.2017 will not take in the right of the petitioner to be considered as, the Instructions dated 29.03.2017 will run prospectively and not retrospectively. However, upon the issuance of the Instructions dated 27.12.2016 (Annexure P-2), the right to be considered for the grant of compassionate appointment was created retrospectively i.e. from 08.10.2012, hence, the respondents are under obligation to grant the petitioner the consideration for the grant of compassionate appointment under the Instructions dated 27.12.2016 (Annexure P-2) and the withdrawal of the same will have no effect to deny the right of the petitioner to the said fact.

6. Even otherwise, as per the judgment of this Court in CWP No. 4303 of 2009 titled as ***Krishna Kumari Vs. State of Haryana and others***, decided on 13.12.2016, the Instructions which are applicable at the time of death are to be made applicable and not the subsequent Instructions. The judgment in ***Krishna Kumari's case (supra)*** can be placed reliance upon.

7. Learned counsel for the respondents has not been able to rebut that on the date when the mother of the petitioner died, the Instructions dated 27.12.2016 (Annexure P-2) were applicable, hence, the respondents are under obligation to consider the said Instructions only to decide the entitlement of the claim of the petitioner for the grant of compassionate appointment and not the subsequent Instructions issued in the year 2017.

8. Let the respondents consider the claim of the petitioner in accordance with law and an appropriate order upon consideration be passed by the respondents within a period of eight weeks of the receipt of copy of this order.

9. Petition is disposed of in above terms.



10. Pending miscellaneous application, if any, also stands disposed of.

December 02, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No